

In computing Retailers' Occupation Tax liability, no deductions shall be taken by a taxpayer from gross receipts on account of the cost of the property sold, or any other cost of doing business. See 86 Ill. Adm. Code 130.410. (This is a GIL).

April 25, 2002

Dear Xxxxx:

This letter is in response to the complaint you recently filed with the Consumer Protection Division of the Illinois Attorney General's Office. Your complaint was forwarded to the Legal Services Office of the Illinois Department of Revenue for a response. The nature of the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), which can be accessed at the Department's Website at <http://www.revenue.state.il.us/Laws/regs/part1200/>.

In your complaint, you stated the BUSINESS assesses a 5% fee on all sales proceeds and you enclosed a notice from the manager that explained this charge was being assessed in lieu of additional rent. Please be advised Section 2 of the Illinois Retailers' Occupation Tax Act, 35 ILCS 120/2, imposes a tax upon persons engaged in the business of selling at retail tangible personal property. The Retailers' Occupation Tax is an occupation tax imposed upon retailers for the privilege of engaging in the occupation of retailing. Retailers incur Retailers' Occupation Tax (sales tax) liability upon their gross receipts from the sale of tangible personal property.

Section 1 of the Retailers' Occupation Tax Act (35 ILCS 120/1) defines "gross receipts" from sales of tangible personal property at retail to mean the total selling price or the amount of such sales. The "selling price" or "amount of sale" means the consideration for a sale valued in money whether received in money or otherwise, and shall be determined without any deduction on account of the cost of the property sold or any other expense whatsoever. See 86 Ill. Adm. Code 130.410.

For example, a retailer may choose to accept payment from a customer through the use of a credit or debit card, and the retailer may not receive the full amount of payment due to the service charges or fees charged by the credit or debit card company. These charges or fees are part of the retailer's cost of doing business and are not deductible from the gross receipts subject to tax. The same would be true for the 5% management expense you describe in your complaint. If an antique dealer charges a customer \$100.00 for an item, the gross receipts upon which the tax is to be computed is \$100.00. If the dealer must pay any fees to its landlord for administrative or other charges, such fees are costs of doing business that cannot be deducted from the dealer's gross receipts. For a \$100.00 sale made in Springfield, Illinois the tax due would be \$7.25 based upon a total rate of 7.25% (6.25% State and 1.0% Springfield home-rule).

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at [www.revenue.state.il.us](http://www.revenue.state.il.us). If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b).

Very truly yours,

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